

1 **STIP**

2 **GABRIEL L. GRASSO, ESQ.**

3 **State Bar Number 7358**

4 **231 South Third Street, Suite 100**

5 **Las Vegas, Nevada 89101**

6 **(702) 868-8866**

7 **Attorney for CHAVEZ-MACIAS**

8 **UNITED STATES DISTRICT COURT**

9 **IN AND FOR THE STATE OF NEVADA**

10 **UNITED STATES OF AMERICA,**

11 **Plaintiff,**

12 **vs.**

13 **JUAN CARLOS MACIAS-CHAVEZ,**
14 **JOSE ROSALES,**

15 **Defendant.**

)
)
) **Case No.: 2:09-CR-00302-GMN-PAL**
)

) **STIPULATION TO CONTINUE**
) **CALENDAR CALL AND TRIAL DATE**
) **(FIFTH REQUEST)**
)
)
)

16 *Certification:* This stipulation is filed pursuant to General Order 2007-04.

17 IT IS STIPULATED between the defendant JUAN CARLOS MACIAS-CHAVEZ
18 through his attorney GABRIEL L. GRASSO, ESQ., co-defendant JOSE ROSALES
19 through his attorney TODD M. LEVENTHAL, ESQ. and the United States of America,
20 through BRADLEY GILES, Assistant United States Attorney, that the calendar call
21 currently scheduled for January 3, 2011 at the hour of 8:30 a.m. and the jury trial
22 currently scheduled for January 11, 2011, at the hour of 8:30 a.m., be vacated and
23 continued 60 days, or to a date and time to be set by this Honorable Court.

24 This Stipulation is entered into pursuant to General Order 2007-04 and based
25 upon the following:

- 26 1. There have been FOUR (4) previous continuances granted to the
27 defense in this case.
- 28 2. Defense counsel for MACIAS-CHAVEZ was retained to represent the
defendant in this case on April 28, 2010 after TWO (2) continuances had
already been granted to previous counsel. The complexity of this case,
as well as additional concerns regarding retained counsel, require this
stipulation by the parties to this case.

- 1 3. Previous attempts at a negotiated settlement have not been successful.
2 Undersigned counsel will continue to seek a settlement as well as
3 prepare for trial, therefore additional time is required.
- 4 4. Currently, preparation for trial is underway, and the extensive wiretap
5 evidence requires further scrutiny by the defense. The wiretaps are in
6 Spanish, which further complicates the process. The defense has not
7 completed the wiretap investigation in this case.
- 8 5. Moreover, undersigned defense counsel has been informed by the
9 defendant's family that no further funds will be forthcoming to pay the fee
10 agreed to in this case. With the prospect of a lengthy jury trial,
11 Undersigned counsel will be requesting a hearing before this Court on
12 the issue of withdrawal.
- 13 6. Denial of this request for continuance would deny the defendant
14 sufficient time to be able to prepare for trial in this case, taking into
15 account the exercise of due diligence.
- 16 7. Also, denial of this request or continuance would result in a miscarriage
17 of justice.
- 18 8. Defense Counsel has discussed this matter of a continuance with his
19 client who is in agreement with the contents of the stipulation.
- 20 9. Todd M. Leventhal, counsel for co-defendant, JOSE ROSALES, concurs
21 in this request for continuance of the trial in this case.
- 22 10. For the above stated reasons, the parties agree that a continuance of
23 the calendar call and trial date would best serve the ends of justice in
24 this case.
- 25 11. The additional time requested by this stipulation is excludable in
26 computing the time within which the trial herein must commence
27 pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), considering
28 the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv).
12. This is the fourth request for a continuance of the calendar call and trial
date in this case.

DATED this _____ day of November, 2010.

RESPECTFULLY SUBMITTED BY:

/s/
BRADLEY GILES, ESQ.
Assistant United States Attorney

/s/
GABRIEL L. GRASSO, ESQ.
Attorney for Defendant

/s/
TODD M. LEVENTHAL, ESQ.
Attorney for Co-Defendant

1 **STIP**

2 **GABRIEL L. GRASSO, ESQ.**

3 **State Bar Number 7358**

4 **231 South Third Street, Suite 100**

5 **Las Vegas, Nevada 89101**

6 **(702) 868-8866**

7 **Attorney for CHAVEZ-MACIAS**

8 **UNITED STATES DISTRICT COURT**

9 **IN AND FOR THE STATE OF NEVADA**

10 **UNITED STATES OF AMERICA,)**

11 **Plaintiff,)**

12 **vs.)**

13 **JUAN CARLOS MACIAS-CHAVEZ,)**

14 **JOSE ROSALEZ,)**

15 **Defendant.)**

Case No.: 2:09-CR-00302-GMN-PAL

STIPULATION TO CONTINUE

**CALENDAR CALL AND TRIAL DATE
(FIFTH REQUEST)**

16 **FINDINGS OF FACT**

17 Based upon the submitted Motion by the defense, and good cause appearing
18 therefore, the Court finds that:

- 19 1. Defense counsel for MACIAS-CHAVEZ will require additional time to
20 investigate the numerous recordings provided in discovery by the
21 Government in this case.
- 22 2. The defense needs additional time to adequately prepare for trial, A
23 continuance will allow the defense to adequately and effectively
24 represent the defendant in this case as well as sufficiently explore the
25 possibility of a negotiated settlement.
- 26 3. Undersigned counsel requires additional time to settle the matter of his
27 continued representation of the defendant in this case and will be setting
28 a hearing to address this issue.
4. This stipulation complies with General Order 2007-04.


CONCLUSIONS OF LAW

1. Denial of this request for continuance would deny the defense herein sufficient time and the opportunity within which to be able to effectively and thoroughly research and prepare for trial in this case, taking into account the exercise of due diligence.
2. Additionally, denial of this request for continuance would result in a miscarriage of justice.
3. For all of the above stated reasons, the ends of justice would best be served by a continuance of the trial date, and such continuance outweighs the best interest of the public and the defendant to a speedy trial.
4. The additional time requested by the stipulation, is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv).

ORDER

Having read Defendant's Stipulation to Continue Calendar Call and Trial Date (Fifth Request), and good cause appearing therefore, the Court hereby DENIES said request.

IT IS SO ORDERED this 1st day of December, 2010.



Gloria M. Navarro
United States District Judge